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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/596,143              | 07/25/2006  | John Andrew Bleloch  | 04634/0204602-US0   | 2751             |
| 7278                    | 7590        | 09/26/2007           | EXAMINER            |                  |
| DARBY & DARBY P.C.      |             |                      | NELSON JR, MILTON   |                  |
| P.O. BOX 770            |             |                      | ART UNIT            |                  |
| Church Street Station   |             |                      | PAPER NUMBER        |                  |
| New York, NY 10008-0770 |             |                      | 3636                |                  |
|                         |             |                      | MAIL DATE           | DELIVERY MODE    |
|                         |             |                      | 09/26/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/596,143

Applicant(s)

BLELOCH, JOHN ANDREW

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 5-8, 10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-8, 10, 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the components (assumed to be the nose, hinge and seat portions) are all molded from synthetic resin materials to form a unit (i.e. unitary). Is the hinge molded from synthetic resin?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the spring plate" in lines 1 to 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-8 and 12, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Avery (623505). Note the seat portion (B as is located rearward of E, and/or F, wherein the portions of B and F includes a section that is located laterally relative to C), nose portion (the portion forward of E, as described in lines 79-82 on page 1), hinge (D at its connection with E, with flexibility as described in lines 76-79 on page 1, and lateral rigidity as described in lines 59-61 on page 1), the spring being a tension spring (pressure on the spring causes tension), screw adjustment means (e, e<sup>2</sup>) engaging one end of the spring, wherein the spring plate is secured to the undersurfaces of the nose portion and seat portion, wherein the spring plate positioned between and secured to the nose portion and the seat portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Avery (623505) in view of Urai (4561917).

The primary reference shows all claimed features of the instant invention with the exception of the saddle components being molded from synthetic resin materials so as to form a unit. Note the discussion of the primary reference above.

The secondary reference conventionally teaches forming saddle components as molded from synthetic resin materials so as to form a unit. Note paragraph 2 of column 1.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by forming the saddle components (cushion portions of Figure 4) as molded from synthetic resin materials to form a unit. This provides a unitary portion made from a durable, relatively inexpensive, and readily available material.

### ***Response to Amendment/Arguments***

Applicant's response filed July 19, 2007 has been fully considered. Remaining issues are described above. Arguments regarding the previous prior art rejections are now moot in view of the new grounds of rejection necessitated by Applicant's amendment.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A seating assembly with a supporting surface that is adjustable relative to another supporting surface is shown by each of Raftery (4498702), Tolleson (5039163), Fismen (5904397) and Mandl (654835).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST EST.

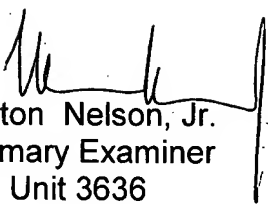
The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Milton Nelson, Jr.  
Primary Examiner  
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mn

September 19, 2007